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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/650,149

08/31/00

DERVERIAN

G

MT22-1330

021567

MMC2/0518

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EXAMINER

LE.T

ART UNIT

PAPER NUMBER

2818

DATE MAILED:

05/16/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

<b>Office Action Summary</b>	Application No. 09/653,149	Applicant(s) DERDERIAN ET AL.	
	Examiner Thao P Le	Art Unit 2818	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on 31 August 2000.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☐ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims 1-33 are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

#### Attachment(s)

- |   |  |
|---|--|
| 15) <input type="checkbox"/> Notice of References Cited (PTO-892)                             | 18) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 16) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 19) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 17) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 20) <input type="checkbox"/> Other: _____                                    |

**DETAILED ACTION**

*Election/Restrictions*

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

Group I. Claims 26-33: draw to a capacitor construction comprising a first capacitor electrode over a substrate and a capacitor dielectric layer over the electrode that is classified in **class 257, subclass 301**.

Group II. Claims 1-25: draw to a method of making a capacitor that is classified in **class 438, subclass 393**.

2. Inventions in Group I and II above are related as device and method, the product made and the process of making product, for its practice. The inventions are distinct if it can be shown that either:

b) the product (I) as claimed can be made by another and materially different process.  
(MPEP 806.05(e)), or

a) the process (II) as claimed can be practiced by another materially different product or by hand.

For instance, unpatentability of the group I invention would not necessarily imply unpatentability of the group II invention, since the device of the group I invention could be made by other processes materially different from those of the group II invention.

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3. Because the inventions are distinct from the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

4. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of the inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).

5. A shortened statutory period for response to this action is set to expired 1 (one) months and 0 (zero) day from the date of this letter. Failure to respond within the period for response will cause the application to become abandoned (see 710.02 (b)).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thao P Le whose telephone number is 703-605-1187. The examiner can normally be reached on M-F (8:30-5:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Nelms can be reached on 703-308-4910. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7722 for regular communications and 703-308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

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Thao Phuong Le

May 11, 2001



David Nelms  
Supervisory Patent Examiner  
Technology Center 2800